UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,867	06/19/2001	David John Gagnon	12552-367	1562

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JOHN S. BEULICK
C/O ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST LOUIS, MO 63102-2740

EXAMINER
RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/681,867	GAGNON ET AL.
	Examiner	Art Unit
	Rob Rhode	3625

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>20 October 2004</u>.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-27</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-27</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>20 October 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All b)☐ Some * c)☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant amendment of 8-20-04 amended the drawings and claims 1, 3, 6, 9,

11, 14, 15 – 17, 21, 24 and 27 as well as traversed rejections of Claims 1 - 27.

Currently, claims 1- 27 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 – 16 and 18 - 27 are rejected under 35 U.S.C. 102(a) as being

unpatentable over "Business Edge Solutions Debuts velOSSity 3 Platform at

Telestrategies OSS World 2001"; PR Newswire; New York; Feb 6, 2001 and

MicroStrategy web page prints captured via the WayBackMachine (archieve.org)

of May 20, 2000 [hereafter collectively referred to as "MicroStrategy"] in view of

Olshansky (US 6,567,854 B1).

Regarding claim 1 and related claims 11, 21 and 22, MicroStrategy teaches a method

of communicating business information using a network-based system including at

least one server coupled to a database and at least one device, said method

comprising:

creating a plurality of dashboards (see at least Page 2);

storing the dashboards in the database (see at least Page 4);

populating the dashboards using information from the database (see at least Pages 4

and 17 – 22);

providing the dashboards to a user through the device (see at least Pages 2 and 6).

However, MicroStrategy does not specifically disclose and teach a method of

recreating, by the at least one server, the plurality of dashboards on a periodic basis.

On the other hand and in the same area of providing information by communicating

with a user via dashboards, Olshansky teaches a method of recreating, by the at least

one server, the plurality of dashboards on a periodic basis (Col 17, lines 60 – 61).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to have provided the method of MicroStrategy with the method of Olshansky to have

enabled a method of communicating business information using a network-based

system including at least one server coupled to a database and at least one device,

said method comprising: creating a plurality of dashboards; storing the dashboards in

the database; populating the dashboards using information from the database;

providing the dashboards to a user through the device and recreating, by the at least

one server, the plurality of dashboards on a periodic basis – in order to have

dashboards updated with more current data. MicroStrategy discloses a method of

communicating business information using a network-based system including at least

one server coupled to a database and at least one device, said method comprising:

creating a plurality of dashboards; storing the dashboards in the database; populating

the dashboards using information from the database; providing the dashboards to a

user through the device (see at least Pages 1 - 6). Olshansky discloses a method of

recreating, by the at least one server, the plurality of dashboards on a periodic basis

(Col 17, lines 60 – 61). Therefore, one of ordinary skill in the art would have been

motivated to extend the method and system of MicroStrategy with a method of

recreating, by the at least one server, the plurality of dashboards on a periodic basis. In

this manner, the information presented to the user is more current and thereby more

useful.

Regarding claim 2, MicroStrategy teaches a method wherein providing the dashboards

comprises providing the same dashboard to a plurality of users, simultaneously (see at

least Pages 2, 4, 6 and 10).

Regarding claim 3, Olshansky teaches a method wherein populating the dashboards

comprises populating the dashboards with updated information from the database (see

at least Pages 2 and 4).

Regarding claim 4 and related claim 23, MicroStrategy teaches a method wherein

creating a plurality of dashboards further comprises selecting filtering parameters

(Pages 17 – 22).

Regarding claim 5 and related claim 13, MicroStrategy teaches a method wherein

creating a plurality of dashboards further comprises selecting at least one dial for the

dashboard (see at least Page 18).

Regarding claim 6 and related claims 14 and 24, MicroStrategy teaches a method

wherein selecting at least one dial comprises selecting a dial including one of a 1 st

Shipment Fill Rate (Stock)--Standard report, a 1 st Shipment Fill Rate (Stock)--Exclude

Single Line Items report, a 1 st Shipment Fill Rate (Stock)--A Items Only report, a 1

st Shipment Fill Rate (Stock)--A Items Only--Exclude Single Line Items report,

a 1 st Shipment Fill Rate (Stock Unit Ship)--Standard report, a 1 st Shipment

Fill Rate (Stock Unit Ship)--Exclude Single Line Items report, a 1 st Shipment

Fill Rate (Stock Unit Ship)--A Items Only report, a 1 st Shipment Fill Rate

(Stock Unit Ship)--A Items Only--Exclude Items report, a Number of Days to 1 st

Shipment--Stock Items report, a Number of Shipments Per Order--Stock Items

report, a % Lines Complete in 10 Days--Stock Items report, an Average Days To

Complete Order--Stock Items report, a RGA As % Of Sales report, a Transactional

Quality As % Of Sales report, an Order Placement Profile & Order Entry

Productivity report, a Requests Met--Stock & Drop Ship Items report, a Requests

Met--Stock Only Items report, a Requests Met--Drop Ship Items Only report, a

Promises Kept--Stock & Drop Ship Items report, a Promises Kept--Stock Items

Only report, a Promises Kept--Drop Ship Items Only report, a Product

Quality--Percentage report, a Product Quality--DPMO report, a Product

Quality--Total RMAs report, a Product Quality--Total RMA Item Quantity report,

a Product Quality--RMAs Issued vs. Line Items Shipped report, a Product

Quality--RMAs Issued vs. Orders report, a Product Quality--RMAs vs. Total

Line Item Quantity report, and a Sales YTM Trend report (see at least Pages 17 – 22).

Please note that in online methods and systems for identifying, selecting and

displaying specific information that a kind/type including such specifics of the

information such as "1 st Shipment Fill Rate (Stock)--Standard report," is given little

patentable weight. The phrase(s) and or word(s) are given little patentable weight

because the claim language limitation is considered to be non-functional descriptive

material, which does not patentably distinguish the applicant's invention from

MicroStrategy. Thereby, the non-fictional descriptive material is directed only to the

content of the data (. i.e. 1 st Shipment Fill Rate (Stock)--Standard report, - which is

stored data) and does not affect either the structure or method/process of

MicroStrategy, which leaves the method and system unchanged.

Regarding claim 7 and related claim 15, MicroStrategy teaches a method wherein

selecting at least one dial with graphic displays comprises selecting a dial owner

(Pages 21 – 22). Please note the recitations that "wherein selecting at least one dial

comprises selecting a dial owner", such recitation is given little patentable weight

because it imparts no structural or functional specificity which serves to patentably

distinguish the instant invention from the other "selecting" already disclosed by

MicroStrategy.

Regarding claim 8 and related claim 16, MicroStrategy teaches a method wherein

selecting at least one dial comprises selecting an upper spec limit and a lower spec limit

for the dial as well as drilldown (Pages 21 – 22). Please note the recitations that

"wherein selecting at least one dial comprises selecting a upper spec limit and a lower

spec limit for the dial", such recitation is given little patentable weight because it imparts

no structural or functional specificity which serves to patentably distinguish the instant

invention from the other "selecting" already disclosed by MicroStrategy.

Regarding claim 9 and related claim 19, Olshansky teaches a method wherein creating

a plurality of dashboards comprises selecting a time span for the information used to

generate the dashboards (Col 17, lines 60 - 61).

Regarding claim 10 and related claim 27, MicroStrategy teaches a method wherein

creating a plurality of dashboards comprises granting viewing privileges for at least one

user as well as for the system (Page 10). Please note that MicroStrategy dose not

specifically disclose regarding viewing privileges. However, the reference does on

page 10 provide information that it is a method for communicating business information

and that the method had numerous online users. In that regard, it is old and well known

that these methods had password access and therefore one of ordinary skill in the art

would have been motivated to extend MicroStrategy with the capability of granting

viewing privileges for at least one user.

Regarding claim 12, MicroStrategy teaches a system wherein the at least one

dashboard is stored on said at least one server (Page 4).

Regarding claim 18, MicroStrategy teaches a system wherein the at least one

dashboard is selectively available through said network, said network is at least one of

the Internet, an intranet, a wide area network and a local area network (Pages 4).

Regarding claim 20, MicroStrategy teaches a system wherein said at least one

dashboard provides business information based on selectable parameters (Page 17).

Regarding claim 25, MicroStrategy teaches a computer program further comprising a

code segment that displays each dashboard in a standardized format (Pages 21 – 22).

Regarding claim 26, MicroStrategy teaches a computer program further comprising: a

code segment that accesses the database; a code segment that searches the

database regarding the specific inquiry; a code segment that retrieves information from

the database; and a code segment that causes the retrieved information to be

displayed on the client system (Pages 4, 17 and 21 – 22).

Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of MicroStrategy and Olshansky and further in view of Marpe (US 6,671,693 B1).

The combination of MicroStrategy and Olshansky discloses and teaches substantially the applicant's invention.

However, the combination does not specifically disclose and teach a system wherein said at least one server regenerates said at least one dashboard on at least one of a command.

On the other hand and regarding claim 17, Marpe teaches a system wherein said at least one server regenerates said at least one dashboard on at least one of a command (see at least Figures 4 and 7 – 10A).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of MicroStrategy and Olshansky with the method and system of Marpe to have enabled a system a system wherein said at least one server regenerates said at least one dashboard on at least one of a command – in order to have dashboards with a scheduling. The combination of MicroStrategy and Olshansky

teaches a method and system of communicating business information using a network-

based system including at least one server coupled to a database and at least one

device, said method comprising: creating a plurality of dashboards; storing the

dashboards in the database; populating the dashboards using information from the

database; providing the dashboards to a user through the device as well as drill down

capability and recreating, by the at least one server, the plurality of dashboards on a

scheduled periodic basis. Marpe discloses a system wherein said at least one server

regenerates said at least one dashboard on at least one of a command (Figure 9). In

that regard, one of ordinary skill in the art would have been motivated to extend the

combination of MicroStrategy and Olshansky with the capability to have a system

wherein said at least one server regenerates said dashboards on at least one of on

command. With this capability, the users satisfaction with the communication business

information method and system will be enhanced - since they will be able to track

scheduled items and be assured that it is updated periodically.

Response to Arguments

Applicant's arguments with respect to claims 1 - 27 have been considered but are

moot in view of the new ground(s) of rejection.

Applicant argues that there is no motivation to combine MicroStrategy with

Marpe.

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill

in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references

are addressing the same problem of extracting from at least one database the required

data for populating an electronic report based on a requesting user's query and

presenting the data/information in an easy to understand format/display such as a

dashboard. For example, MicroStrategy would fairly suggest and teach that it receives

a query from the user for an electronic information report and this information/data is

extracted from at least one database and presented to the user in a more useful format

such as a dashboard (Pages 2, 11, 14 and 21). In turn, Marpe would fairly suggest and

teach extracting from at least one database the required data for populating an

electronic report based on a requesting user's query and presenting the

data/information in an easy to understand format/display such as a dashboard (Figures

9 and 10A). In that regard, one of ordinary skill in the art would have been motivated to

extend MicroStrategy with the capability to have a system wherein said at least one

server regenerates said dashboards on at least one of on command. With this

capability, the users satisfaction with the communication business information method

and system will be enhanced - since they will be able to track scheduled items and be

assured of receiving updated information, which is presented in a user defined and

thereby easier to understand format such as a dashboard.

Applicant argues that Examiner used hindsight reasoning for combining MicroStrategy and Marpe.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Please note that a "traverse" is a denial of an opposing party's allegations of fact.[1] The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an <u>adequate traverse</u> because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not

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[1] Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

considered to be common knowledge or well-known in the art. 27 CFR

1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate

information or argument to create on its face a reasonable doubt regarding the

circumstances justifying Examiner's notice of what is well known to one of

ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234

(CCPA1971).

If applicant does not seasonably traverse the well known statement during

examination, then the object of the well known statement is taken to be admitted prior

art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03

Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of

applicant's failure to adequately traverse official notice, the following are admitted prior

art: Regarding claim 10 and related claim 27, MicroStrategy teaches a method

wherein creating a plurality of dashboards comprises granting viewing privileges for at

least one user (Page 10). Please note that MicroStrategy dose not specifically

disclose regarding viewing privileges. However, the reference does on page 10

provide information that it is a method for communicating business information and

that the method had numerous online users. In that regard, it is old and well known

that these methods had password access and therefore one of ordinary skill in the art

would have been motivated to extend MicroStrategy with the capability of granting

viewing privileges for at least one user.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the **Receptionist** whose telephone number is **(703)**

308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

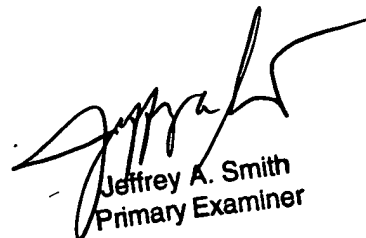**Alexandria, Va. 22313-1450**

or faxed to:

(703) 872-9306   [Official communications; including

After Final communications labeled

"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal

Drive, Arlington, VA, 7th floor receptionist.

RER

Jeffrey A. Smith
Primary Examiner